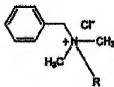


REMARKS

Claims 37-71 are pending, wherein claims 1-19, 21-25 and 28-36 were cancelled and replaced with new claims 37-71. Reconsideration and allowance for the above-identified application are now respectfully requested in view of the foregoing amendments and the following remarks.

The Examiner has requested (i) an election of an invention to be examined and (ii) identification of the claims encompassing the elected invention. The Examiner has identified the inventions as follows:

- I. Claims 1-9, 11-14, 16-18, 21-24 are drawn to a method of locally treating pathogen disordered tissue caused by at least one of a virus, bacteria or a fungus, comprising treatment with an organohalide composition that is substantially free of menthol, thymol, eucalyptol eugenol, camphor hexetine and anethol, classified in class 514, subclass 643.
- II. Claims 10 and 19, drawn to a method of locally treating pathogen disordered tissue caused by at least one of a virus, bacteria or a fungus, comprising treatment with an organohalide composition that is substantially free of menthol, thymol, eucalyptol eugenol, camphor hexetine and anethol, and being substantially oil free or substantially free of penetration inhibiting components, classified in class 514, subclass 553.
- III. Claims 15, 25, 28, 29 and 31, drawn to a method for locally treating pathogen-induced disordered tissue caused by at least one of a virus, bacteria or a fungus, comprising treatment with an anti-infective agent comprising at least one benzalkonium chloride compound having the following structure:



wherein R is an alkyl group having 8-18 carbons, classified in class 424, subclass 70.28.

- IV. Claims 30 and 32-35, drawn to a method for treating pathogen disordered tissue caused by at least one of a virus, bacteria or a fungus, comprising treatment with an organohalide composition, classified in class 514, subclass 553.

- V. Claim 36, drawn to a method for locally treating pathogen-induced disordered tissue caused by a herpes virus comprising treatment treating pathogen disordered tissue caused by at least one of a virus, bacteria or a fungus, comprising treatment with an organohalide composition, classified in class 514, subclass 934.

The Applicants hereby elect without traverse Invention III. Claims 37-71 as now presented read on, and are therefore within the scope of, the elected invention. Because the elected invention includes methods for treating pathogen-induced disordered tissue caused by at least one of a virus, bacteria or fungus, the elected invention is not limited to any particular type of virus, bacteria or fungus.

The claims are patentable over U.S. 5,753,270 to Beauchamp et al., either alone or if taken with any other art of record, for at least those reasons set forth in previous amendments, including the most recent amendment filed July 14, 2008. Beauchamp et al. neither teaches nor suggests the specific treatment composition recited in the claims as now presented. Nor does Beauchamp et al. disclose or suggest the specific manner in which the treatment composition is applied to disordered tissue as is recited in several of the dependent claims.

The claimed methods yield unexpected results, which are further evidence that the claimed methods are unobvious over Beauchamp et al. Beauchamp teaches the necessity of applying the disclosed topical treatment composition "to the afflicted area 3 to 4 times over a one minute period", followed by "[r]epeat[ing] every 3 minutes over a 10 minute period", followed by "[r]epeat[ing the] procedure after approximately ½ to 1 hour", followed by "[r]epeat[ing] application ... every 2 to 3 hours or until activity is stopped and healing is evident". Col. 5, ll. 55-64. Thus, the composition used in Beauchamp et al. must be applied dozens of times to be effective. In contrast, the treatment composition and methods described in the Application do not require dozens of applications to be effective. Instead, the Application implies that a single application in which the composition forms a reservoir of anti-infective composition within the disordered tissue may be sufficient to complete treatment. *See App.*, p. 19, ll. 10-20; Example 6. Even if more than one application is required or desired, the treatment composition of the claimed methods does not need to be applied dozens of times to be effective as in Beauchamp et al. This is clearly an unexpected result that is further evidence of the unobviousness of the claimed invention.

Moreover, Beauchamp et al. is not properly combinable with Remington's Pharmaceutical Sciences, p. 685. While Beauchamp et al. discloses topical treatment of skin disorders Remington's Remington's discloses a method of achieving *systemic* circulation of a drug within a person by vigorously rubbing a drug into a person's hair follicles in a manner that causes the drug to penetrate through the skin and into the patient's "circulation". Because neither Beauchamp et al. nor the claimed methods seek to provide systemic rather than topical treatment, there was no teaching, suggestion, motivation or other reason why one of skill in the art would have combined Beauchamp et al. with Remington's to obtain the claimed invention.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to **Deposit Account No. 23-3178**: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to **Deposit Account No. 23-3178**.

Dated this 5th day of January 2009.

Respectfully submitted,



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